

RESOLUTION NO. 87-57

RESOLUTION CONCURRING IN STAFF ACTION
REGARDING THE BID FOR LODI LAKE PARK CONCESSIONS
IN AWARDING THE SUBJECT BID TO ROBERT VANDERGRIFF

WHEREAS, on April 15, 1987, the Lodi City Council approved specifications for Lodi Lake Concessions and authorized the advertising for bids thereon; and

WHEREAS, on May 12, 1987 at the time and place scheduled for the bid opening, only one bid was received as follows:

Robert Vandergriff - 10% of all gross revenues after taxes
to be paid to the City of Lodi on a monthly basis

WHEREAS, due to the fact there was not a second City Council meeting scheduled for the month of May, 1987 and the impending Memorial Day weekend, the City Manager proceeded with emergency actions to implement a contract with Mr. Vandergriff so that operations could commence over the holiday weekend. A contract was therefore signed by Mr. Vandergriff when it was ascertained that he had met all insurance, performance bond and preoperation requirements.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby accept the bid of Robert Vandergriff for the Lodi Lake Park Concessions as heretofore set forth; approves the agreement for the operation of the Lodi Lake Park Concessions, See Exhibit A attached and thereby made a part hereof, and authorize the City Manger and City Clerk to execute the appropriate agreement.

Dated: June 3, 1987

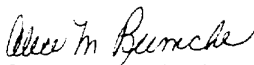
I hereby certify that the foregoing resolution was passed and adopted by the City Council of the City of Lodi in a regular meeting held Wednesday, June 3, 1987, by the following vote:

Ayes: Council Members - Hinchman, Pinkerton, Reid,
Snider, and Olson (Mayor)

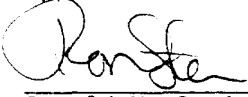
Noes: Council Members - None

Absent: Council Members - None

Attest:


Alice M. Reimche
City Clerk

Approved as to form



Ronald M. Stein
City Attorney

AGREEMENT

CITY OF LODI

DEPARTMENT OF RECREATION AND PARKS

Lodi Lake Concession Operation

THIS AGREEMENT is made and entered into this 21 day of May, 1987, by and between the CITY OF LODI, a municipal corporation, hereinafter called City, and ROBERT VANDERGRIF, hereinafter call Concessionaire.

W I T N E S S E T H:

Concessionaire agrees to operate concession stand and park area at Lodi Lake Park under the following terms and conditions:

Area to be Serviced:

Location:	Lodi Lake Park
Facility:	Concession Stand and Park Area
Location:	1301 West Turner Road, Lodi, California

City does hereby grant to Concessionaire the sole and exclusive right/license to vend food, drinks (except alcoholic beverages of any kind), picnic supplies, souvenirs, etc. at the concession stand and

Lodi Lake proper area at Lodi Lake Park for a period of nineteen (19) months beginning May 21, 1987 and ending December 31, 1988.

The City will provide:

1. Enclosed concession stand with some limited city-owned equipment, which Concessionaire will be expected to service and maintain at Concessionaire's sole cost and expense.
2. Water, gas, electricity, and garbage receptacles outside the concession buildings shall be provided by the City. The Concessionaire will be responsible for removing at Concessionaire's own cost, large boxes and/or storage containers which may accumulate from equipment or food storage packaging.
3. Maintenance of the general property of the concession building, unless abuse and lack of general care is apparent, at which time the cost and expenditures shall be that of the concessionaire. Likewise, City will assist with repairs of vandal-caused damage to building only.

Lodi Lake Concession Operation Conditions:

1. The length of the contract is for nineteen (19) months, beginning May 21, 1987 through midnight December 31, 1988.

2. Concessionaire agrees to maintain in full force during the term hereof a policy of general liability insurance which contains an Additional Named Insured Endorsement naming the City of Lodi as an Additional Insured, and under which the insurer agrees to indemnify and hold the City of Lodi harmless from and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the demised premises; where such accident, damage, or injury, including death, results or is claimed to have resulted, from any act or omission on the part of Concessionaire or Concessionaire's agents or employees in the implementation of this Agreement. The minimum limits of such insurance shall be \$500,000/\$1,000,000 Bodily Injury; \$100,000 Property Damage, or \$1,000,000 combined single limit. In addition to the Additional Named Insured Endorsement on Concessionaire's policy of insurance, said insurance policy shall be endorsed to include the following language:

"Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

A duplicate or certificate of said bodily injury and property

damage insurance containing the above-stated required endorsements shall be delivered to the City Attorney after the issuance of said policy, with satisfactory evidence that each carrier is required to give the City of Lodi at least 30 days prior notice of the cancellation or reduction in coverage of any policy during the effective period of this Agreement. The insurance certificate must state on its face or as an endorsement, the name of the Lodi Lake Park Concession that it is insuring. If there has been no such delivery within forty-eight (48) hours prior to the commencement of any portion of this project, this Agreement shall be null and void. All requirements herein provided shall appear either in the body of the insurance policy or as endorsements and shall specifically bind the insurance carrier. This paragraph and all other provisions of this Agreement shall apply and be construed as applying to any subtenant of Concessionaire.

Notwithstanding other provisions contained in this agreement, the City Manager is granted the right to immediately terminate the agreement upon failure on the part of the Concessionaire to keep in full force and effect during the entire term of the agreement, the insurance as set forth in this section.

3. Concessionaire shall furnish a products and price list which list shall be approved by the City Manager or his representative. Concessionaire shall generally follow the product and price schedule as shall be negotiated between the City Manager or his

representative and Concessionaire. Since the contract is for nineteen (19) months, prices will be reviewed each year. The Concessionaire can also add to or delete from the product list, with the written approval of the City Manager or his representative. Prices will be reviewed in March of each year by the Concessionaire and the Director of Recreation and Parks.

4. Concessionaire will provide all equipment and products to operate said concession.
5. Concessionaire will pay 10 percentage of gross receipts after taxes to the City of Lodi on the tenth (10th) day of each month while in operation. If said percentage is not paid by the tenth (10th) day of each month, there shall be a penalty of five (5) percent per day for any amounts not paid, and owing to the City. The Concessionaire shall keep accurate records and books of accounts of all purchases and sales and does hereby give to the City or its authorized agents, the right to examine and audit said books at any time City desires. The Concessionaire will complete monthly records on forms provided by the City, which must accompany monthly gross receipts payment.
6. Concessionaire will be expected to operate any time that the park is open between May 1 and September 30 of each year or at such times that the City Manager of the City of Lodi or his representative directs. The hours of operation will be set by the Director of Recreation and Parks in coordination and cooperation

with the mutual agreement of the Director and the Concessionaire, which will best suit and service the public and its concession needs.

7. Concessionaire agrees to obtain at his own expense any and all permits and licenses which may be required by law or ordinance in conducting the concession and to pay any and all taxes which may be assessed against him for whatever purposes in the operation of said concession.
8. Concessionaire shall keep the concession stand and the immediate surrounding areas in clean and presentable condition at all times and follow the strictest of sanitary conditions and any State and local ordinances applicable to the business to be conducted. Concessionaire shall be responsible to give to the City, written notice of any maintenance problems.
9. Concessionaire shall have exclusive rights to all concession sales at Lodi Lake Park.
10. Concessionaire is aware that a Possessory Interest Tax is charged each year by the County Assessor for the use of the facility and that this tax is the responsibility of the vendor.
11. The Director of Recreation and Parks for the City of Lodi reserves the right to approve or disapprove any employee or operator of

said concession stand, i.e., dress, general cleanliness, working relationship with public, and so forth.

12. City reserves the right to enter upon the premises at any reasonable time, to inspect the operation and equipment thereon or for any other purpose.
13. Concessionaire shall not have the right to sell, mortgage, assign or sublet the contract/agreement or any part thereof without the prior written consent of the City Manager of the City of Lodi, and a breach of this condition shall automatically terminate any contract or agreement between City and Concessionaire.
14. The Concessionaire shall be responsible for the security of the concession stand and any storage buildings assigned to his/her exclusive use as far as locks on doors and windows or installation of an alarm system if it is deemed necessary, and shall be responsible for any acts of vandalism that may occur.
15. The Concessionaire shall provide the City with a performance bond in the amount of five hundred dollars (\$500).
16. At the conclusion of or termination of any stated agreement/contract, the Concessionaire will be expected to surrender said concession premises in as good an order as that in which they would receive same, excepting ordinary wear and tear. Damage to or mistreatment of the building or City equipment will be the

responsibility of the Concessionaire to repair, replace, or reimburse for repair or replacement.

17. The agreement/contract may be terminated by written agreement of either party hereto without cause upon thirty (30) days' written notice to the other party. Such notice shall be delivered to the City of Lodi at the office of the City Manager, City Hall, or to the Concessionaire at the premises which are subject to this agreement.


18. If Concessionaire defaults in any of the terms contained herein, the Concessionaire's agreement to provide service as specified herein shall terminate upon failure of Concessionaire to correct the default within thirty (30) days of receiving written notice thereof from the City. Upon any termination hereof, Concessionaire agrees to quit and surrender possession peaceably and City shall have the right to remove Concessionaire and all others occupying through or under the agreement.

19. In the event that either party brings an action under this Agreement for the breach or enforcement thereof, the prevailing party in such action shall be entitled to its reasonable attorneys' fees and costs whether or not such action is prosecuted to judgment.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first hereinabove written.

CITY OF LODI, a municipal corporation

THOMAS A. PETERSON
City Manager

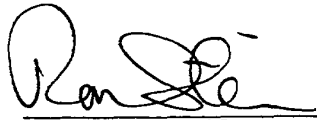


ROBERT VANDERGRIFF
Concessionaire

ATTEST:

ALICE M. REIMCHE
City Clerk

Approved As To Form:



RONALD M. STEIN
City Attorney

agrvande.grf/txta.01v